

IPW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR CORRECTION OF PTO RECORDS REGARDING FILING DATE

APPLICANT: Mart Min et al ATTORNEY DOCKET NO. P01,0337  
ALLOWED: June 2, 2005 CONFIRMATION NO. 8791  
SERIAL NO.: 09/937,875 GROUP ART UNIT: 3762  
FILED: October 1, 2001 EXAMINER: C. H. Layno  
TITLE: "RATE ADAPTIVE PACEMAKER"

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

S I R:

The undersigned counsel for the Applicants received a Notice of Allowance (copy attached) indicating a filing date of October 1, 2002 for the above-referenced application. Although that filing date is consistent with the filing date on the Official Filing Receipt (copy attached), neither document is in accord with the decision under 37 C.F.R. §1.181 dated March 26, 2003 (copy attached). In that decision, it is explicitly stated that the application has a 35 U.S.C. §371 date of October 1, 2001. It is the understanding of the undersigned counsel for the Applicants that this is the date that is supposed to be indicated as the "filing date" on the Notice of Allowance. Correction of the Patent and Trademark Office records is therefore respectfully requested.

Submitted by,

*Steven H. Noll*

(Reg. 28,982)

SCHIFF, HARDIN LLP **CUSTOMER NO. 26574**

Patent Department  
6600 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606  
Telephone: 312/258-5790  
Attorneys for Applicant.

### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on June 9, 2005.

*Steven H. Noll*

STEVEN H. NOLL

CH1\ 4265932.1





## UNITED STATES PATENT AND TRADEMARK OFFICE

**RECEIVED**

JUN 07 2005

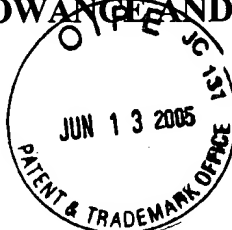
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: Acquisition, Commissioner for Patents  
Washington, DC 20513-1450  
Schiff Hardin LLP  
U.S. PATENT DEPT.

## NOTICE OF ALLOWANCE AND FEE(S) DUE

26574

7590

06/02/2005

SCHIFF HARDIN, LLP  
PATENT DEPARTMENT  
6600 SEARS TOWER  
CHICAGO, IL 60606-6473

EXAMINER

LAYNO, CARL HERNANDZ

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 06/02/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,875	10/01/2002	Mart Min	P01,0337	8791

TITLE OF INVENTION: RATE ADAPTIVE PACEMAKER

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$0	\$1400	09/02/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

## HOW TO REPLY TO THIS NOTICE:

## I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,875	10/01/2002	Mart Min	P01,0337	8791
26574	7590	06/02/2005		
SCHIFF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473				
			EXAMINER LAYNO, CARL HERNANDZ	
			ART UNIT 3762	PAPER NUMBER

DATE MAILED: 06/02/2005

## Determination of Patent Term Extension under 35 U.S.C. 154 (b)

(application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

# Notice of Allowability



Application No.

09/937,875

Examiner

Carl H. Layno 5/31/05

Applicant(s)

MIN ET AL.

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Paper No. 10012002.
2. ☒ The allowed claim(s) is/are 7-12.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 1/30/02
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Art Unit: 3762

### **DETAILED ACTION**

1. Acknowledgment is made of applicant's preliminary amendment, which was received by the Office on October 1, 2002.

2. Claims 1-6 are canceled. Claims 7-12 are active.

#### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Information Disclosure Statement***

4. Acknowledgment is made of applicant's Information Disclosure Statement (PTO-1449) which was received by the Office on January 30, 2002.

#### ***Drawings***

5. The corrections to the formal drawing of Figs. 1 and 2 were received on October 1, 2002. These drawing changes are approved by the Examiner.

#### ***Allowable Subject Matter***

6. Claims 7-12 are allowed.

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*Examiner's Comments*

7. The formal drawings should be modified to incorporate the corrections to Fig. 1 submitted by the Applicant in the paper received by the Office on October 1, 2002.

*Reasons for Allowance*

8. The following is an examiner's statement of reasons for allowance:

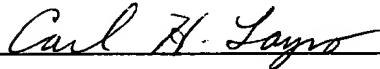
Independent claim 7 describes the details of a rate adaptive pacemaker including, among other features, a "pacing rate limiter" circuit for calculating stroke volume (SV) of a patient when active and when at rest (SV<sub>rest</sub>). These parameters determine a ratio (SV/SV<sub>rest</sub>), whose value has been specified in the claim to be between 1.2 and 1.5. and whose corresponding cardiac output (CO) is greater than that at rest (CO<sub>rest</sub>). These criteria are used to form a lower limit to the pacer's pacing rate.

Of the prior art references of record, only the Schroepel '592 patent, cited herein by the Examiner, appears to detect stroke volume and compare it against a predetermined value (see Fig. 6) in the manner described by the applicant. Unlike applicant's claims, however, the stroke volume calculation of Schroepel does not involve calculating a stroke volume ratio based upon the patient's resting stroke volume. Similarly, the Examiner could not find any other reference(s) showing or teaching the feature of a stroke volume ratio based upon a patient's resting stroke volume; consequently, the Examiner deems this claim and its depending claims to be allowable over the prior art of record.

All claims having been allowed, **corrected formal drawings are now required.**

Art Unit: 3762

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

A handwritten signature in cursive script, reading "Carl H. Layno", is written over a horizontal line.

CARL LAYNO  
PRIMARY EXAMINER

CHL  
5/31/2005





Sheet 1 of 1

37 CFR 1.501  
INFORMATION DISCLOSURE STATEMENT  
IN A PATENT  
(use several sheets if necessary)

Docket No.  
P01,0337Serial No.  
09/937,875Applicant  
Min et al.Filing Date  
October 1, 2001Group Art Unit 3762  
Not Yet Assigned

## U.S. PATENT DOCUMENTS

Examiner's Initials		Document Number	Date	Name	Class	Subclass	Filing Date If appropriate
CHL	AA	5,861,011	01/19/99	Stoop	607	25	
	AB	5,807,272	09/15/98	Kun et al.	607	547	
	AC	5,183,040	02/02/93	Nappholz et al.	607	4	
	AD	5,154,171	10/13/92	Chirife	607	24	
	AE	5,282,840	02/01/94	Hudrlik	607	28	
	AF	5,280,429	01/18/94	Withers	378	70	
CHL	AG	4,535,774	08/20/85	Olson	607	24	
	AH						
	AI						
	AJ						
	AK						

## FOREIGN PATENT DOCUMENTS

		Document Number	Date	Country	Class	Subclass	Translation	
							Yes	No
CHL	AL	0 576 114	12/29/93	Europe	A61N	1/365	✓	
CHL	AM	0 140 472	05/08/85	Europe	A61N	1/36	✓	
	AN							
	AO							
	AP							
	AQ							

## OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)

CHL	AR	"Design of Cardiac Pacemakers," Webster, Ed., IEEE Press (1995), pp. 380-386					
	AS						
	AT						
	AU						
	AV						
	AW						
	AX						
	AY						
	AZ						

Examiner

Carl H. Layton

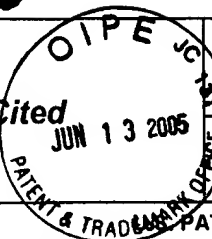
Date Considered

5/31/2005

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

BEST AVAILABLE COPY

# Notice of References Cited



Application/Control No.

09/937,875

Applicant(s)/Patent Under  
Reexamination  
MIN ET AL.

Examiner

Carl H. Layno

5/31/05

Art Unit

3762

Page 1 of 1

## PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
X	A	US-5,413,592	05-1995	Schroeppel, Edward A.	607/18
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

## FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

## NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



Commissioner for Patents  
Washington, DC 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/937,875	10/01/2002	3762	1450	P01,0337	1	6	1

CONFIRMATION NO. 8791

## FILING RECEIPT



\*OC000000009818678\*

26574  
SCHIFF HARDIN & WAITE  
6600 SEARS TOWER  
233 S WACKER DR  
CHICAGO, IL 60606-6473

Date Mailed: 04/11/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Mart Min, Tallinn, ESTONIA;  
Andres Kink, Harjumaa, ESTONIA; *aa*  
Toomas Parve, Tallinn, ESTONIA;

## Domestic Priority data as claimed by applicant

This application is a 371 of PCT/SE00/00572 03/23/2000

## Foreign Applications

SWEDEN 9901194-2 03/31/1999

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

## Title

Rate adaptive pacemaker

## Preliminary Class

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APR 22 2003

SCHIFF HARDIN & WAITE  
U.S. PATENT DEPT.

607

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



UNITED STATES PATENT AND TRADEMARK OFFICE



Commissioner for Patents, Box 801  
 United States Patent and Trademark Office  
 Washington, D.C. 20231  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/937,875	Mart Min	P01,0337

INTERNATIONAL APPLICATION NO.
-------------------------------

PCT/SE00/00572

I.A. FILING DATE	PRIORITY DATE
03/23/2000	03/31/1999

26574  
 SCHIFF HARDIN & WAITE  
 6600 SEARS TOWER  
 233 S WACKER DR  
 CHICAGO, IL 60606-6473

CONFIRMATION NO. 8791

371 ACCEPTANCE LETTER



\*OC000000009818679\*

Date Mailed: 04/11/2003

### NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

<u>10/01/2002</u>	<u>10/01/2002</u>
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF RECEIPT OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** *The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 10/01/2001
- Copy of the International Search Report filed on 10/01/2001
- Copy of IPE Report filed on 10/01/2001
- Preliminary Amendments filed on 10/01/2002
- Information Disclosure Statements filed on 01/30/2002
- Oath or Declaration filed on 10/01/2002
- Request for Immediate Examination filed on 10/01/2001
- U.S. Basic National Fees filed on 10/01/2001
- Substitute Specification filed on 01/30/2002

**RECEIVED**

APR 22 2003

SCHIFF HARDIN & WAITE  
 U.S. PATENT DEPT.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

---

FRANCINE YOUNG

Telephone: (703) 305-3662

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/903 (371 Acceptance Notice)



26 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

Steven H. Noll  
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Patent Department  
6600 Sears Tower  
Chicago, IL 60606

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APR 03 2003  
SCHIFF HARDIN & WAITE  
U.S. PATENT DEPT.

In re Application of  
MIN, Mart *et al*  
U.S. Application No.: 09/937,875  
PCT No.: PCT/SE00/00572  
Int. Filing Date: 23 March 2000  
Priority Date: 31 March 1999  
Attorney's Docket No.: P01,0337  
For: A RATE ADAPTIVE PACEMAKER

**DECISION  
UNDER  
37 CFR 1.181**

This decision is in response to applicants' "Request for Reconsideration of Decision Dated December 19, 2002" filed 21 January 2003.

### **BACKGROUND**

On 13 December 2002, a decision dismissing applicants' petition under 37 CFR 1.181 was mailed because applicants did not provide a date-stamped postcard receipt for the declaration purportedly filed 01 October 2001.

On 21 January 2003, applicants submitted the instant renewed petition which included a copy of the date-stamped postcard receipt for the documents filed 01 October 2001.

### **DISCUSSION**

MPEP 503 lists procedures for applicants to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In the renewed petition, applicants have provided a copy of a postcard filing receipt. The receipt clearly identifies the application and all papers submitted. The filing receipt acknowledges that a "Declaration" was listed in the documents mailed 01 October 2001. The receipt has a date stamp of "533 Rec'd PCT/PTO 01 OCT 2001" across its face.

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the USPTO on 01 October 2001.

**DECISION**

For the reasons above, applicants' petition under 37 CFR 1.181 is **GRANTED**.

The decision dated 13 December 2002 stated that the instant application has a 35 U.S.C. 371 date of 30 January 2002. Since applicants have submitted a grantable petition under 37 CFR 1.181, this date has changed. The application has an international filing date of 23 March 2000 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **01 October 2001**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

  
James Thomson  
Attorney Advisor  
PCT Legal Office

Tel.: (703) 308-6457